

In the Application of:
SCHRÖDER et al.
Serial No.: 10/561,224

REMARKS

In the Action, claims 1-21 are restricted between an O/W emulsifier of claims I-17 (Group I), a method of making an emulsion of claims 18-20 (Group II), and a cosmetic formulation of claims 21 (Group III). Applicant provisionally elects Group I directed to the O/W emulsifier; the claims encompassing such are claims 1-17. The provisional election is made with traverse.

The restriction is based on the position that, based on PCT Rule 13.2, the special technical feature of the combination of a glyceryl oleate citrate and a viscosity modifier is allegedly disclosed in the JP 2003061572A. Applicant respectfully disagrees with the Examiner's determination of the special technical feature. The feature is a combination of approximately 70 to 90 wt.% of glyceryl oleate citrate and approximately 10 to 30 wt.% of a viscosity modifier. The JP reference clearly discloses a range of 0.05% to 1 wt.% of its oil (See "Solution" at pg. 1). This amount at its maximum is 70 times less than Applicant's lowest amount in the claimed range. Thus, in accordance with PCT Rule 13.2, the "technical features that define a contribution of the claimed inventions, considered as a whole, makes over the prior art." (emphasis added). At the very least, claim 21 of Group III should be included with the Group I claims.

In view of the above comments, Applicant requests the restriction be withdrawn. Prompt and favorable examination on the claims is requested.

Respectfully submitted,



Rajiv S. Shah
Reg. No. 56,247

Roylance, Abrams, Berdo & Goodman, L.L.P.
1300 19th Street, N.W., Suite 600
Washington, D.C. 20036
(202) 659-9076
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